

From: [Kevin Maldonado](#)
To: [Suzanne Avena](#); [Phillip Landrigan \(plandrigan@cfl-law.com\)](#); [P. Rigano James \(jrigano@riganollc.com\)](#); [Nicholas Rigano](#); [John Martin](#); [Kivowitz, Sharon](#)
Cc: [Vazquez, Julio](#); [Mannino, Pietro](#); [Doyle, James](#); [Lopez, Peter](#)
Subject: Re: Approval of Project Coordinator and Supervising Contractor
Date: Thursday, April 30, 2020 3:23:36 PM

Sharon: As you know, we had a meeting in the EPA office on September 10, 2019 to discuss the recent data and to begin the discussion of a possible revision of the remedial approach in the EPA OU-1 ROD. To date, we have not received any feedback following that meeting. By letter from my clients' owner and manager, Arthur Sanders, dated April 24, 2020, enclosing technical recommendations from our consultant Ensafé, a meeting was requested to resume the discussion commence in September. It is imperative that a meeting via Skype or Zoom be scheduled to discuss a revision of the remedy and the course of action required by the Unilateral Administrative Order ("UAO").

Moreover, as you may know, my clients and the central plume parties have been third-partied into the Western Plume litigation commenced by EPA. As a result, my clients are now forced to engage in costly litigation. A primary motivation for my clients' agreement to comply with the UAO was the avoidance of litigation costs. If we are able to reach agreement on a remedy and approach that is consistent with current data, we will need a consent decree to provide contribution protection for EPA OU-1 and the fairfield. It is unacceptable for my clients to bear the costs of the remediation while at the same time fighting an expensive litigation in federal court as third-party defendants in the EPA action.

As expressed to EPA in September, and again in the April 24th letter, my clients are willing to implement a remedy that fully addresses the Eastern Plume contamination in an expedited manner based upon the current data. The emails coming from you seem to disregard both the meeting held in September and the recent request for a meeting supported by the Ensafé technical memorandum. Instead your emails suggest that EPA expects full adherence to the terms of the UAO without modification or discussion. My clients very much would like to work with EPA on a full and final remediation. However, my clients will not blindly march forward and implement the UAO approach which is not consistent with current data, is not consistent with NCP, and disregards current site conditions.

Please schedule a meeting as soon as possible to discuss the issues raised above and in Mr. Sanders' letter to Administrator Lopez.

Thank you for your consideration of this request. Kevin

On Wednesday, April 29, 2020, 12:27:57 PM EDT, Kivowitz, Sharon <kivowitz.sharon@epa.gov> wrote:

We have now finally received all of the information necessary for us to review and approve the Supervising Contractors and Project Coordinator.

By this email, and in accordance with Paragraph 53 of the Unilateral Administrative Order for Remedial Design, Index No. CERCLA-02-2018-2015, as amended ("UAO"), EPA approves Ernie Rossano of ERM as the Project Coordinator, and Supervising Contractors ERM (for the Central Plume) and Ensafé (for the Eastern Plume).

As per the schedule set forth in Section 6.2 of the Amended Statement of Work #1 ("SOW"), the supporting deliverables (Quality Assurance Project Plan, Health and Safety Plan, Site Management Plan, Emergency Response Plan and Field Sampling Plan) are due within 60 days from today or by Monday, June 29, 2020. Please also note that Progress Reports, as required by Section 4.1 of the SOW are due the 15th day of each month following this approval. Thus, your first progress report is due on May 15th.

Moving forward, the communication should be between Julio Vazquez, EPA's Remedial Project Manager for OU1 at the Site, and your Project Coordinator, Ernie Rossano of ERM. Deliverables should be submitted in accordance with Section 5.3 of the SOW.

Julio Vazquez can be reached at 212-637-4323 and at Vazquez.julio@epa.gov.

If you have any questions, please call me at 212-637-3183, my phone is rolling to my home phone.

Hoping you are all healthy in these crazy times.

Sharon

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